IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4427 OF 2005

M/s. Rathi Re-rolling Mills & Anr. ..Petitioners.

Versus

Central Bank of India & Ors. ..Respondents.

Mr. R.S. Apte with N.R. Bubna for the Petitioners.

Mr. J.Shekhar with Vilas Deshpande for Respondents.

CORAM : S. A. BOBDE, J.

DATED : 14TH JULY, 2005.

P.C.:

1. Rule, returnable forthwith.

2. Mr. Shekhar waives service of rule for the Respondents.

3. Heard by consent.

4. The petitioners have challenged the order passed by the Debts Recovery Appellate Tribunal,

Mumbai, upholding the order of the Debts Recovery Tribunal -III, rejecting the petitioners' application for inspection of certain documents including the extracts of five accounts. The respondent bank has sued the petitioners for recovering its dues. It appears that earlier, a suit was initiated in the Court of Civil Judge, Sr. Dvn., Nasik some time in the year 1995. Thereafter, they have been transferred to the D.R.T.. Apparently, the petitioners have challenged some orders before this court and they were asked to deposit certain amount which they failed to do. They carried the matter by way of a Special Leave Petition to the Honourable Supreme Court, which was also dismissed.

5. The learned counsel for the petitioners submitted that the inspection of the original accounts is necessary. The respondent bank has filed certain copies of the extracts of five accounts in question in accordance with the Bankers Books Evidence Act. It is not necessary to go into the probative value of the documents at this stage. As regards, the question of actual inspection, it appears that this court by an order dated 29th June, 2004 recorded the statement of the counsel for the bank that the necessary

information and inspection of the accounts would be offered to the petitioner. It is obvious from the letter dated 30th July, 2004 that an inspection of the petitioners loan accounts with the respondent bank, was taken by one R.D. Gujarathi, the petitioners' Chartered Accountant, who has written this letter. The Chartered Accountant has recorded the inspection taken on 27th July, 2004 by his letter dated 30th July, 2004. It is true that the Chartered Accountant has pointed out certain defects. This, however, does not mean that the original documents were not offered for inspection. The learned counsel for the respondent bank states that the petitioners have already cross-examined the bank's witnesses and that cross-examination is complete in the year, 1998. The petitioners have thereafter sought five adjournments for final hearing of the matter.

6. Having regard to the above facts and circumstances, I see no merit in this petition, which is hereby dismissed. Rule is discharged.

14.07.2005 (S.A.BOBDE,J.)